

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

Secretary, United States Department)	
of Housing and Urban Development, Charging Party,)	
on behalf of:)	
)	
Patricia Diart)	
Complainant,)	
)	
v.)	14-AF-0150-FH-017
)	
Gordon Jong, Nancy Jong, Michael Jong, and)	March 17, 2015
Sharon Jong,)	
)	
Respondents.)	
)	
)	
)	

INITIAL DECISION AND CONSENT ORDER

I. Background

On or about December 30, 2013, Patricia Diart (“Complainant”) timely filed a complaint with the U.S. Department of Housing and Urban Development (“HUD” or “the Department”) alleging that Respondents Gordon Jong, Nancy Jong, and American Realty & Construction, Inc., discriminated against her on the basis of disability in violation of the Fair Housing Act (“the Act”), as amended, 42 U.S.C. §§ 3601-19. On April 25, 2014, the complaint was amended to remove American Realty & Construction, Inc., as a respondent. On June 24, 2014, the complaint was amended again to add Michael Jong and Sharon Jong as respondents.

On September 30, 2014, following an investigation of the complaint and a determination that reasonable cause exists to believe that a discriminatory housing practice occurred, HUD issued a Charge of Discrimination against Gordon Jong, Nancy Jong, Michael Jong, and Sharon Jong (“Respondents”). On March 16, 2015, the parties filed a Joint Motion to Stay Proceedings because the parties reached an agreement in principle as to the terms of settlement. On March 17, 2015, Administrative Law Judge J. Jeremiah Mahoney issued an Order Granting the Stay of Proceedings. The parties, as indicated by the signatures at the end of this document, have consented to the entry of this Initial Decision and Consent Order.

The following facts are undisputed by the parties:

- i) Complainant is a person with a disability. Complainant rents an apartment in a 13-unit multifamily apartment complex located at 715 Leavenworth Street, San Francisco, California 94109 ("the Subject Property").
- ii) Respondents Gordon Jong, Nancy Jong, Michael Jong, and Sharon Jong own the Subject Property as tenants in common.

II. General Provisions

1. By the signing of this Initial Decision and Consent Order, the parties agree that the Charging Party will file a motion with HUD's Office of Administrative Law Judges requesting its approval and issuance pursuant to 24 C.F.R. § 180.450.
2. The parties acknowledge that this Initial Decision and Consent Order is a voluntary and full settlement of the disputed Charge. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Initial Decision and Consent Order.
3. It is understood that the Respondents deny any violation of law, and that this Initial Decision and Consent Order does not constitute an admission by the Respondents.
4. This Initial Decision and Consent Order is binding upon the U.S. Department of Housing and Urban Development, the Complainant and her successors and assigns, and the Respondents and their employees, agents, heirs, successors, and assigns.
5. Pursuant to 24 C.F.R. § 180.680(a), the parties understand that this Consent Order shall be a public document.
6. No amendments to, modification of, or waiver of any provision of this Initial Decision and Consent Order shall be effective unless all of the following provisions are met: (a) all signatories or their successors to the Initial Decision and Consent Order agree in writing to the amendment, modification or waiver; and (b) the amendment, modification or waiver is in writing.

7. The parties agree that, in the interest of concluding this matter, this Initial Decision and Consent Order may be executed by the parties' signatures on separate pages. The separate pages will be attached to the body of the Initial Decision and Consent Order to constitute one document. To avoid delay, the parties agree that signature pages received via Portable Document Format ("PDF") and/or facsimile will be considered official provided that the original copy of the signature page is forwarded to Counsel for the Department (U.S. Housing and Urban Development, Office of Counsel, Region IX, One Sansome Street, Suite 1200, San Francisco, CA 94104) immediately upon its signing. Both the original, and PDF or faxed signature pages will be retained in the official case file.
8. In exchange for Respondents' compliance with the provisions of this Initial Decision and Consent Order, the Complainant hereby forever waives, releases and covenants not to sue the Department, Respondents, their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages, and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUDALJ Case No. 14-AF-0150-FH-017 or which could have been filed in any action or suit arising from said subject matter.
9. In exchange for Complainant's compliance with the provisions of this Initial Decision and Consent Order, the Respondents hereby forever waive, release, and covenant not to sue the Department, the Complainant, their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages, and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUDALJ Case No. 14-AF-0150-FH-017 or which could have been filed in any action or suit arising from said subject matter.

III. Injunctive Relief

10. Respondents, their agents, employees and all other persons in active concert with them are hereby enjoined from:
 - a. Discriminating on the basis of disability in violation of 42 U.S.C. § 3604(f) by failing to make reasonable accommodations in rules, policies, practices or services when such reasonable accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling;
 - b. Coercing, intimidating, threatening or interfering with persons in the exercise or enjoyment of their right to seek a reasonable accommodation, or on account of their having exercised or enjoyed their right to seek a reasonable accommodation pursuant to the Act; and/or
 - c. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in this proceeding.

11. Respondents acknowledge that any subsequent retaliation or discrimination against the Complainant constitutes both a material breach of this Initial Decision and Consent Order, and a separate and discreet statutory violation of the Act not covered by this Initial Decision and Consent Order.

IV. Relief for Complainant

12. In exchange for the waivers and releases described in this Initial Decision and Consent Order, Respondents agree to take the following actions and will provide the Department with written certification that these requirements have been met:
 - a. Respondents agree to forgive any and all rent increases that have accrued for the period beginning with Ms. Diart's tenancy in April of 1993 through the effective date of this Initial Decision and Consent Order. Rent increase forgiveness shall include any and all banked rent increases allowable under the Residential Rent Stabilization and Arbitration Ordinance, Sections 37.3(a)(2)-(3); and any and all accrued costs associated with capital improvements under the Residential Rent Stabilization and Arbitration Ordinance, Section 37.7. Said rent increase forgiveness shall be effective in perpetuity.
 - b. Respondents acknowledge that Complainant is a person with a disability as defined by the Fair Housing Act at 42 U.S.C. § 3602(h). Respondents accept Complainant's request for a reasonable accommodation to maintain an emotional support animal, and will allow Complainant to keep the emotional support animal on the Subject Property. Currently, Complainant's emotional support animal is a cat, named Minou. Respondents acknowledge and agree that Complainant's reasonable accommodation includes Complainant's right to replace "Minou" with another cat without further approval from Respondents. Respondents agree that any future requests for reasonable accommodation from Complainant will be addressed in accordance with federal law.
 - c. Respondents agree to pay the amount of \$3,000 (THREE THOUSAND DOLLARS AND 00/100) in the form of a check payable to Patricia Diart and mailed directly to the Complainant by certified mail at the following address within ten (10) days of the effective date of this Initial Decision and Consent Order:

Patricia Diart
715 Leavenworth Street, Apt. 5
San Francisco, CA 94109

- d. Respondents agree to forgive Complainant's rent payments for a period of six (6) consecutive months, beginning with the first month rent would otherwise be due after the effective date of this Initial Decision and Consent Order. Within ten (10) days of the effective date of this Initial Decision and Consent Order, Respondents will provide Complainant with written confirmation of the specific dates during which no rent is due, and the date of the next required rent payment. This notification will be sent by certified mail to the Complainant at the following address:

Patricia Diart
715 Leavenworth Street, Apt. 5
San Francisco, CA 94109

V. Relief in the Public Interest

13. Respondents agree that all Respondents will attend four (4) hours of fair housing training within three hundred and sixty-five (365) days of the effective date of this Initial Decision and Consent Order. The Respondents shall pay for any cost of the training. The training shall be conducted by a reputable fair housing organization. A notarized certificate of completion, including the attendee's name, date, and a description of the training course shall be forwarded to the Department (U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Employment Opportunity, Attention: Conciliation Review, One Sansome Street, Suite 1200, San Francisco, CA 94104) within ten (10) days of completion of the training.
14. Within ten (10) days of the effective date of this Initial Decision and Consent Order, Respondents shall inform all of their agents and employees responsible for compliance with this Initial Decision and Consent Order of the terms of this Initial Decision and Consent Order and shall provide each such person with a copy of this Initial Decision and Consent Order.
15. Within sixty (60) days of the effective date of this Initial Decision and Consent Order, Respondents shall create a written reasonable accommodation policy and shall inform employees and agents about the written reasonable accommodation policy. The written reasonable accommodation policy must specifically describe the process for an applicant and/or tenant to request a reasonable accommodation, identify the person(s) responsible for responding to the requests, and provide a timeline for responses that will ensure timely responses to the requests. A copy of the written reasonable accommodation policy shall be forwarded to the Department (U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Employment Opportunity, Attention: Conciliation Review, One Sansome Street, Suite 1200, San Francisco, CA 94104) within ten (10) days of its creation.

VI. Monitoring and Compliance

16. The Department shall determine compliance with the terms of this Initial Decision and Consent Order. During the term of this Initial Decision and Consent Order, HUD may review compliance with this Initial Decision and Consent Order. As part of such a review, HUD may inspect the Subject Property, examine witnesses, and copy pertinent records. Respondents agree to provide their full cooperation in any monitoring review undertaken by HUD to ensure full compliance with this Initial Decision and Consent Order.
17. Upon a breach of any provision of this Initial Decision and Consent Order, the United States may petition the appropriate United States Court of Appeals for the enforcement of this Initial Decision and Consent Order and for appropriate relief in accordance with 42 U.S.C. § 3612(j).

VII. Reporting and Record Keeping

18. This Initial Decision and Consent Order contains specific actions that are required of Complainant and Respondents. These actions must be completed within the specified time frames, and satisfactory completion must be verified by the Department. It is understood that this Initial Decision and Consent Order will serve as the basic notice of the required contents of and deadlines for progress reports. Failure to provide documentation of compliance with the terms of this Initial Decision and Consent Order constitutes breach of this Initial Decision and Consent Order.
19. On the last day of every third month beginning ninety (90) days after the effective date of this Initial Decision and Consent Order, and continuing for the term of this Initial Decision and Consent Order, Respondents shall compile a copy of each request for a reasonable accommodation at the Subject Property for the previous three months, including a statement of whether the request was rejected or accepted, the date of such action, and, if rejected, the reason for the rejection.
20. As directed by this Initial Decision and Consent Order, all required certifications and documentation of compliance must be submitted to:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Employment Opportunity
Attention: Conciliation Review
One Sansome Street, Suite 1200
San Francisco, CA 94104

VIII. Integration

21. This Initial Decision and Consent Order memorializes and constitutes the entire agreement and understanding between the parties and supersedes and replaces all prior negotiations, proposed agreements and agreements between the parties, whether written or unwritten. The parties acknowledge that no person or entity, nor any agent or attorney of any person or entity, has made any promises, representations, or warranties whatsoever, express or implied, which are not expressly contained in this Initial Decision and Consent Order, and the parties further acknowledge that they have not executed this Initial Decision and Consent Order in reliance upon any collateral promise, representation, warranty, or in reliance upon any belief as to any fact or matter not expressly recited in this Initial Decision and Consent Order.

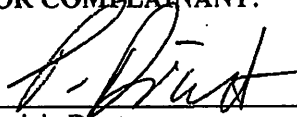
IX. Administration

22. The Initial Decision and Consent Order will become effective and final thirty (30) days after it is issued by the HUD Administrative Law Judge or upon affirmance by the Secretary within that time. See 24 C.F.R. § 180.450 and 24 C.F.R. § 180.680(b).
23. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at this time.
24. The term of this Initial Decision and Consent Order shall be three (3) years from its effective date, or until compliance with all material terms on an individual basis to each Respondent.
25. The Initial Decision and Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Act, or any other complaint within the Department's jurisdiction for events not arising out of or formed under the basis for this Initial Decision and Consent Order.
26. The parties agree that if a party to this agreement needs an extension of time in order to satisfy a deadline provided in this Consent Order, such extension must be obtained in writing from counsel for HUD.
27. The signature of the parties to this Initial Decision and Consent Order constitutes a waiver of any right to apply for attorney's fees or costs pursuant to 42 U.S.C. § 3612(p) and 24 C.F.R. § 180.705.

X. Agreement of the Parties

The parties below have read this Initial Decision and Consent Order and have willingly signed it with a full understanding of the rights it confers and the responsibilities it imposes on them.

FOR COMPLAINANT:



Patricia Diart

03-23-2015

Date

X. Agreement of the Parties

The parties below have read this Initial Decision and Consent Order and have willingly signed it with a full understanding of the rights it confers and the responsibilities it imposes on them.

FOR RESPONDENTS:

Gordon K Jong 3/31/15
Gordon Jong Date

Nancy Jong 3/31/15
Nancy Jong Date

Michael Jong 3/30/15
Michael Jong Date

Sharon Jong 3/30/15
Sharon Jong Date

RESPONDENTS' REPRESENTATIVE:

Joseph A. Sacramento, Esq. 4/6/15
Joseph A. Sacramento, Esq. Date

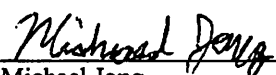
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FOR RESPONDENTS:

Gordon Jong Date

Nancy Jong Date

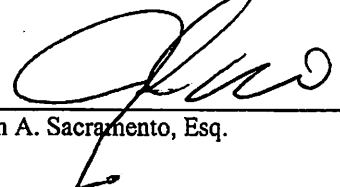


Michael Jong Date 3/30/15



Sharon Jong Date 3/30/15

RESPONDENTS' REPRESENTATIVE:

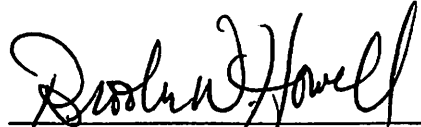


Joseph A. Sacramento, Esq. Date 4/6/15

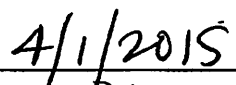
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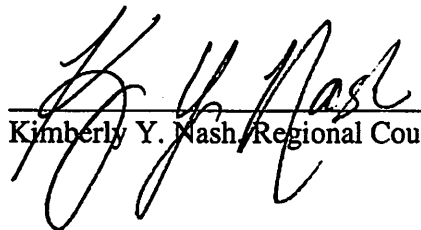
FOR THE SECRETARY, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:



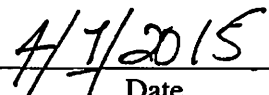
Brooke W. Howell, Trial Attorney



Date



Kimberly Y. Nash, Regional Counsel




Date

XI. Order of the Court

The Court, after reviewing the agreement finds that it appears to be in the public interest. All parties have given their consent and signed the agreement incorporated in the foregoing Initial Decision and Consent Order, which is hereby accepted and issued pursuant to 24 C.F.R. § 180.450.

So ORDERED, this 10th day of April, 2015.



Alexander Fernández
U.S. Administrative Law Judge